IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.702 OF 2006
IN
SUIT NO.815 OF 1978

The BEST Co-operative Housing Society Ltd. ..Plaintiff.

V/s.

Navinchandra N.Majithia & Ors. ..Defendants.

And

Prabhavati Tarachand Mehta & Anr. ..Respondents.

Mr.P.R.Gyani i/b. M/s. Mahimtura & Co. for plaintiff.

Mr.B.B.Parekh i/b. Little & Co. for defendant No.1.

Ms. Sushma Bhende for defendant nos. 3A,3B, 4.

CORAM: A.M.KHANWILKAR,J

DATE : APRIL 20, 2007.

P.C. :

1. Heard counsel for the parties.

2. Although this Chamber Summons is opposed by the defendant No.1, in the interest of justice, I am inclined to grant this Chamber Summons in terms of prayer clause (a), (b) and (c). This is so because, no prejudice will be caused to any of the parties, if the heirs and legal representatives of the deceased defendant No.3 are brought on record. The defendant

No.3 was representing estate of original owner of the property. Even defendant No.4 is also espousing the same cause. Thus understood, the estate of original owner is already represented by defendant No.4. Besides, it is clearly agreed that the parties will not ask for reopening of the recording of the evidence, which has already progressed before the Commissioner so far. As this assurance is given by the applicants as well as defendant No.4, I see no reason to deny the reliefs claimed by the applicants in terms of the prayer clause (a),(b) and (c).

3. Hence, the Chamber Summons is made absolute in terms of prayer clause (a), (b) and (c) on the above terms.

4. Leave to amend to give correct name of defendant No.4 in the suit.

5. Amendment to be carried out within two weeks from today.